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**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Serial No.: 10/750,708
Applicant: Robert J. Simmons
Filed: January 2, 2004
Group #: 3637
Examiner: Phi Dieu Tran A

Confirmation Number: 3807

Date of Appeal Brief: January 25, 2008

Docket No: J-BSIM.1009

Customer No: **56703**

For: Building Frame With Open/Openable-Top, Hollow, Tubular Column Structure

MS Appeal
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

REPLY TO EXAMINER'S ANSWER

In Reply to the Examiner's Answer, filed November 28, 2007, Applicant respectfully submits the following:

Claim 3 stand rejected under 35 U.S.C. § 112, 2d paragraph. The Examiner sets forth reasons for this rejection in the first numbers paragraphs 1 and 2 of the Answer, however, the Examiner does not recite the full claim, and in particular, does not recite the full paragraph which is used as the basis for the rejection. Taken in the Examiner's piecemeal presentation, the claim language is confusing, however, when viewed as a whole, the claim is presented in acceptable standard American English, and should be understandable by all persons of adequate language skills. Claim 3 recites:

A building method for fabricating a site-built, plural-story building comprising furnishing a column-and-beam structural building frame possessing a load-bearing portion which is defined by nodally interconnected columns and beams, where at least

one column is formed as a hollow, tubular structure,

providing in the at least one column, substantially immediately above a nodal connection between the mentioned one column and a beam, an upper-end utility region which extends above and beyond the frame's load-bearing portion, and which region terminates in a nominally open, upwardly facing mouth which opens to the hollow interior of the at least one column to define therewith a utility port,

employing the defined utility port, inserting downwardly therein, for stabilized insertion, reception and use, a building, construction-extension instrumentality selected from the list consisting of (a) an installable/removable crane structure, (b) a column-like element provided for the addition of selected building superstructure, and (c) additional building infrastructure feedable downwardly through said port toward a selected elevation in said building structure, and

at least for such a crane structure and superstructure, utilizing direct lateral engagement therebetween and the receiving column utility port to furnish fully all lateral stabilization of and support for the thus port-received structure.

The Examiner cites the phrase "...utilizing direct lateral engagement therebetween...." as being unclear because the Examiner does not understand that "therebetween" means that there is a direct lateral engagement between the crane structure, the superstructure and the column utility port - such engagement provides lateral stabilization and support for the port-received structures (the items of claim 3, paragraph 3, identified as (a), (b), and (c)). This was carefully explained to the Examiner in responses prior to the Final Office action from which this Appeal is taken. It is also clear that the Examiner does not understand that there are three (3) elements recited in claim 3, which are carefully set forth as three elements, annotated by (a), (b), and (c) to make very clear that there are three elements. Two of these elements are further defined by the language of claim 3, last paragraph, what the Examiner has identified as paragraph 4 of the claim, which clearly describes a relationship between the crane structure (a), the superstructure (b) and the receiving column utility port. The 35 U.S.C. § 112, 2d paragraph rejection should be over turned by the Board.

Having shown that the applied art does not teach nor suggest the appellant's

invention as claimed, Appellants request that the Examiner's final rejection of these claims be reversed.

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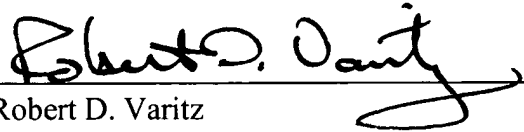
Respectfully Submitted,

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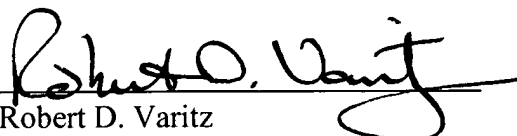
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I hereby certify that the attached Reply to Examiner's Answer is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to:

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